

Issues of Merit

A Publication of the Office of Policy and Evaluation, U.S. Merit Systems Protection Board

November 2001

Director's Perspective

Warm Bodies Are Not Enough

A number of years ago, a high-level administration official dismissed concerns that the federal government was losing the war for talent in its recruitment efforts. As proof that there was no cause for alarm, he argued that on average there were 10 applicants for every federal job vacancy. The most obvious flaw in this argument, of course, is that such an “average” can result even when there are no applicants at all for one vacancy, yet 20 applicants for another. The point is that the government can have plenty of applicants and still have critical positions unfilled. As important as it is to have a good understanding of the numbers, there is another, more subtle component to this debate that goes beyond statistics. That component involves the vitally important issue of applicant and workforce quality.

As the tragic attacks of September 11 and the events since then have made clear, the federal government carries out many indispensable activities on behalf of the nation, and the public expects the government to be there when needed. The public is not likely to find the inability to fill positions with quality employees an acceptable excuse if the government is unable to respond to a crisis. If there's something systemic—laws, regulations, processes, or procedures—that interferes with the government hiring the people it needs, we should deal with those obstacles now. At the same time we must be wary of unintended consequences. While some much-needed attention is being given to methods for streamlining the federal hiring process, that effort will be for naught if all we do is hire marginal employees faster. Even 50 appli-

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OPE Focus on the Facts

Belief:

“It's impossible to fire a federal employee.”

Fact:

Nearly 8,400 federal employees were fired (or quit in lieu of being fired) in fiscal year 2000 for reasons related to poor performance, suitability, conduct, or conduct-related deficiencies such as abandonment of position or falsifying a job application. Most actions such as these are not appealed to MSPB, and when they are, federal agencies are highly successful in defending their decisions.

Source: MSPB calculations based on data drawn from OPM Central Personnel Data File.

Outstanding Scholar Hiring Inconsistent with OPM Guidance

Last year, *Issues of Merit* reported on the use of a non-competitive hiring authority—the outstanding scholar program—under which thousands of college graduates are hired each year into jobs covered by the twenty-year-old *Luevano* consent decree. We also provided some data that suggested the authority was being used in a manner inconsistent with the terms of that decree and the guidance issued by the Office of Personnel Management (OPM). More recent data reveal that while the percentage of new hires being made under this authority has declined slightly, problems persist.

The hiring authority under the outstanding scholar program allows federal agencies to hire individuals with high college grade point averages (3.5 or better) into a wide variety of entry-level professional and administrative jobs without competition and without regard to veterans preference considerations. In a July 1998 memo, after finding that a number of agencies were using this authority in a manner inconsistent with the terms of the

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cants for a vacant position is an inadequate number if none of them is well-matched to the requirements of the job. Simply hiring warm bodies is not enough.

The goal for the federal government, therefore, should *not* be to make it easier and faster for any job applicant to get a federal job. Instead, for the public good, the goal must be to make it easier and faster for *highly qualified* and motivated individuals from all segments of society to come to work for the federal government. And we have to find ways to make them want to come. On a number of levels and for a number of reasons, the need has rarely been greater. However, MSPB's research into these issues has demonstrated that in order to meet that need, several conditions will have to be met:

1. Robust applicant pools must be developed. Instead of large standing inventories of well qualified individuals who

wait for months before they know whether they can even be considered for a job, applicant pools must be developed and used quickly, and individual applicants must be kept apprised of the status of their application on an ongoing basis.

2. Federal agencies must hone their recruiting skills. Federal managers and recruiters should seek out and make use of proven "best practices" and they must also be willing to abandon old notions or procedures that are ineffective.

3. Federal employment should be seen as highly desirable and highly competitive. It should be clear that only the best applicants—relative to the requirements of the positions being filled—will have the opportunity to serve.

4. Federal selecting officials should have access to the best selection tools possible to identify the very best from among a superior group of applicants. Training in effective interviewing techniques is an important ingredi-

ent in using selection tools effectively, and should be included in this effort.

5. The government must be willing to make a resource investment to attract the best and the brightest. That investment should be not only in competitive salaries and benefits, but also in a work environment in which individuals feel that their skills and abilities have a positive impact and their efforts are recognized and appreciated.

It should be understood that attracting and selecting highly qualified and motivated individuals requires an investment of effort and resources at all stages of the process. As with the best investments, it's not only the right thing to do—it's also a practice that we know will yield a good return. The American public deserves to have that investment in the federal workforce made on its behalf.

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consent decree, OPM reminded directors of personnel that the program "was established as a supplement to competitive examining in situations where underrepresentation of Blacks and Hispanics continued. It was not intended to replace competitive examining, nor to become the primary method of hiring into the specified occupations at these grades."

As MSPB reported in January 2000, however, misuse of the authority appeared to continue in at least some agencies. This was troubling for at least three reasons.

First, the court found that the employment conditions that existed at the time of the 1981 consent decree justified the temporary use of a non-competitive hiring approach. Those conditions, however, have

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Table 1. Race and national origin distribution of entry-level new hires into jobs subject to the Luevano consent decree (formerly hired through PACE), calendar years 1993-2000.

Year hired	African-American	Hispanic	Asian/Pacific Islander	Native American	White
1993	12.0	8.8	4.5	1.7	72.6
1994	13.8	10.3	5.5	1.6	67.6
1995	15.5	10.9	5.5	1.3	64.7
1996	12.6	12.2	4.6	1.0	68.5
1997	12.5	15.5	4.8	1.0	65.5
1998	13.7	14.8	5.1	1.2	65.0
1999	16.6	13.6	5.2	1.6	63.0
2000	17.5	12.8	5.6	1.7	62.4
2000 CLF	11.2	11.8	3.8	0.9	72.3

Note: Because of rounding and omission of "other," rows may not total 100 percent

Sources: Federal workforce data provided by OPM Office of Workforce Information. CLF data are from OPM's annual FEORP report to Congress for FY 2000.

Table 2. Percentage of new hires into entry level jobs in occupations subject to the Luevano consent decree (formerly hired through the Professional and Administrative Career Exam), calendar years 1993-2000.

Hiring method	1993	1994	1995	1996	1997	1998	1999	2000
Outstanding scholar	46	42	41	34	35	30	31	27
Bilingual/bicultural	3	4	2	4	8	4	6	3
Co-operative education	13	11	8	6	5	4	4	4
VRA	10	9	12	15	11	10	8	5
Competitive hiring	11	16	15	25	25	38	38	47
Other	18	18	22	17	17	13	13	14
Number hired:	4,084	4,534	5,140	5,863	5,966	7,155	7,882	8,809
Source: OPM's Office of Workforce Information.								

changed significantly. African-Americans and Hispanics are no longer underrepresented in entry-level hiring for the occupations covered by the consent decree—but *not* thanks to the outstanding scholar program. In fact, as we noted in the January 2000 report, African-Americans were as likely and Hispanics were more likely to be hired through competitive hiring methods than through the non-competitive outstanding scholar program.

Second, if an agency is using the outstanding scholar program as a primary hiring method, it is denying consideration to college graduates who may be highly qualified for a specific job but who have a GPA of 3.4 or less. Denial of consideration for federal employment should be based on valid job-related reasons. A specific college GPA, per se, has *not* been shown to be one of those reasons.

Third, as an exception to competitive hiring, the outstanding scholar program does not require that consideration be given for veterans preference eligibility, and veterans are hired under that program at a much lower rate than through competitive hiring. All the more reason, therefore, that the exception be used only within the terms of the consent decree.

Recently, we updated the information on hiring for the jobs covered by the consent decree. We are encouraged by the fact that African-Americans and Hispanics continue to enter these jobs at rates above their representation in the civilian labor force (CLF), and that—in aggregate—the use of the noncompetitive outstanding scholar program has declined while competitive hiring has increased. However, some hiring patterns within the aggregate figures are troubling.

Table 1 confirms that all four minority racial and national origin groups are entering the covered occupations at rates above their representation in the CLF.

Table 2 shows how the use of the various hiring methods shifted significantly in 2000 to favor competitive examining. On its face this suggests that the outstanding scholar hiring program is now more likely to be used as intended—to supplement competitive hiring. However, analysis by occupation shows that

this not true for all jobs.

For example, of the more than 100 occupations affected by the *Luevano* consent decree, seven were jobs for which the outstanding scholar authority was the primary hiring method. For these jobs, outstanding scholar hires outnumbered competitive hires 1,448 to 1,037. When we looked only at the five occupations involving the greatest combined number of competitive and outstanding scholar appointments, outstanding scholar outnumbered competitive appointments 1,134 to 743—a situation that does not seem to represent a “supplemental” use of the outstanding scholar authority.

In one federal department, of the 304 persons hired into one occupation, only 20 were hired through competitive procedures while 284 were hired through the outstanding scholar program.

Ironically, although the outstanding scholar program was created to reduce adverse impact on African Americans and Hispanics, some of its biggest users still do a better proportional job of hiring African-Americans and Hispanics through competitive procedures than through the non-competitive outstanding scholar program.

Finally, with respect to hiring veterans, not much has changed since our April 2000 look at this issue, as table 3 shows.

In short, looking at the latest numbers suggests that at least a few federal departments and agencies continue to use the non-competitive
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Table 3. Hiring and veterans preference eligibility, Luevano occupations, 1999 and 2000.

Method of entry	Preference eligibles hired during 1999		Preference eligibles hired during 2000	
	Number/total hires	Percent of total hires	Number/total hires	Percent of total hires
Competitive procedures	543/2991	18.2	777/4109	18.2
Outstanding Scholar Program	225/2459	9.2	175/2340	7.5
Source: Office of Personnel Management, Civilian Personnel Data File.				

outstanding scholar program in a manner inconsistent with the terms of the consent decree. Further, there are no data to suggest that the individuals hired under this program are superior in job performance to individuals hired through competitive methods. At a time when the need for the federal government to hire the best job candidates is at an all time high, the continued use and possible misuse of a non-competitive hiring authority must be questioned.

Categorical Grouping Treats Veterans Better than Rule of Three

As some government reformers take aim at the infamous Rule of Three, it's helpful to be aware of the Rule's origins, and the actual consequences of its use in today's federal hiring process.

As we've pointed out in these pages before, it's not an exaggeration to say that the Rule of Three is an artifact of the late 1800s. The Rule was first adopted during the Grant administration in 1871, and began as a Rule of One. It was expanded to a Rule of Three to conform with an attorney general decision that found that limiting the choice to one was no choice at all, and that such a restriction denied federal managers their constitutionally granted appointment discretion. Thus, the Rule of Three was intended to give managers meaningful choices when selecting from among external candidates for federal employment. And it really doesn't have anything to do with assuring that veterans receive preference in federal hiring, as some seem to believe. (See the Board's December 1995 report "The Rule of Three in Federal Hiring" for more details about the history of the Rule.)

Today the Rule works pretty much the way it did over a century

ago: a manager hiring individuals into the civil service must select one of the top three candidates available on a certificate of eligibles. (The certificates are typically prepared by personnel offices and the candidates normally are awarded numerical scores based on how well they are

Veterans were more likely to be selected under the categorical grouping system than by using the Rule of Three.

judged to meet the job requirements; points are added to passing scores for veterans preference.) This might be a good approach to hiring top talent if we could be reasonably sure that the top three people on a certificate are the best of all those who applied for the job. The problem, however, is the shortage of reliable tools with which to rate candidates and make those fine distinctions that are necessary to actually identify the three best candidates. Further, if there are more than three candidates tied for the highest score, tie breakers must be used to get down to only three. Random selection based on social security number is usually used in such cases. This is hardly an example of sound merit-based selection, and it's difficult to argue that it gives managers truly meaningful choices.

A better way to provide choices for managers and a way that's more in keeping with the principle of hiring based on merit is the categorical grouping process that recently was proposed by OPM and others. That's the process that elements of the Department of Agriculture successfully experimented with during a demonstration project a few years back. The Agriculture Department evaluated applicants solely on the basis of their qualifications (not including veterans preference) and then put the qualified candidates into a "quality" or an "eligible" category. At that point,

veterans preference was applied by placing all veterans at the top of their respective category. Managers could select any veteran in the quality group, or had to successfully object to the veteran's qualifications or eligibility.

This approach more accurately reflected the state of candidate assessment tools, and veterans were more likely to be selected under the category ranking system than by using the Rule of Three. The demonstration proved very successful and Congress eventually made the once-experimental system a permanent part of the hiring process in the bureaus of the Agriculture Department where it had been tested.

An optional category grouping system is now being proposed for application throughout the federal government. Were such a system to be created by law, it would go a long way towards removing a perennial obstacle to flexible human resources management and it would present better opportunities for veterans to obtain federal jobs than the Rule of Three allows.

MSPB to Investigate Staffing Issues

We're hearing a lot these days about a "human capital crisis" as government officials and worried observers express concern about potential retirements and federal agencies' difficulties in attracting and keeping the capable and qualified workforce they need to carry out essential missions. Belief in the seriousness of the problem is widespread, as evidenced in congressional testimony and academic writings. These concerns are also reflected in the recent creation of the Partnership for Public Service, a nonprofit group formed to "enhance perceptions of public service, help the government better recruit and retain talented workers, and spur

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the creation of a 21st Century work environment.”

In light of today’s concerns about staffing the federal government, the Board’s Office of Policy and Evaluation is about to undertake a set of studies that will examine several issues that are central to the problems faced in recruiting and retaining well-qualified individuals in the federal service. One study will examine the current state of federal recruiting, assessing the kinds of recruiting initiatives agencies currently have in place, the jobs and grade levels at which these efforts are targeted, and the success of these initiatives.

Another study will focus on a very specific aspect of the recruitment process—the vacancy announcements used by federal agencies to attract individuals to federal service. That study will not only provide insights into how vacancy announcements are currently being used, but also will offer recommendations to agencies interested in making their marketing efforts more successful.

A third study will review the use of automated tools designed to assist agencies in evaluating prospective employees, and address the aspects of automated evaluation techniques that appear to be most promising from a “good measurement” standpoint.

A Cracked Ceiling

Our 1992 “Glass Ceiling” report on women in the federal workforce indicated that the government had made strides in hiring and advancing women since 1978, but that concerted, overt efforts still were needed to overcome the subtle biases that prevented more women from getting ahead. Using 1992 and prior employment rates, we forecast that in 2017 (25 years later) women would occupy only slightly more than a third of GS

13-15 white-collar positions and less than a third of SES positions in the federal government.

The good news is that the actual representation of women in these grades has risen more quickly than we’d anticipated. During FY 97-99, the representation of women at grade GS 15 reached a level we thought would take until 2002 to achieve, and the representation of women in the SES by 1999 had reached a level we projected would not be achieved until 2007. At the beginning of fiscal year 2000, 24 percent of GS-15s and 23.4 percent of the SES were women.

In our 1996 report on minority employment in the federal government, we reported improvements in the fair and equitable treatment of minorities in the workforce. Since then, the government has made progress in hiring and advancing minorities, although Hispanics in the federal workforce remain below their representation in the civilian labor force. Another lingering issue is the perception gap between white and minority employees. The belief that minorities are mistreated continues to be expressed by minorities significantly more frequently than by whites.

It’s important to note, of course, that fair and equitable treatment involves more than promotion statistics alone. For example, challenging assignments, good training, and other opportunities are the precursors to promotion and need to be provided to workers fairly.

The issue of fair and equitable treatment is particularly important in today’s environment, in which the government as an employer needs to be especially vigilant to ensure that national origin and religion do not become reasons for discriminatory treatment. We know from the cracks we’ve seen in the glass ceiling that organized effort and commitment can make a difference. We will be updating our reports on the employment of minorities and women in the

coming months as we examine the extent of that difference.

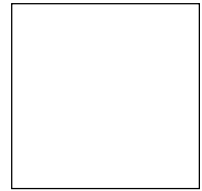
Study of Non-Procurement Professionals Underway

The amount the government spends to acquire goods and services from the private sector is on the increase, as is the complexity of the contracts that make these acquisitions possible. GAO estimates that federal sector contract spending in fiscal year 2000 totaled about \$204 billion, an increase of 9 percent over 1999. At the same time, the size of the government’s professional acquisition workforce has declined dramatically. For example, in the Defense Department—which does the largest share of government contracting—the acquisition workforce was cut by half during the 1990s. With the prospect of a large number of retirements on the horizon, there are real concerns in the executive branch and Congress regarding how and how well the government is able to select, manage, and monitor contractors.

The Board has, in the past, expressed its own concerns about the effectiveness of the procurement workforce and has examined the views of professional procurement workers, their supervisors, and their clients (see MSPB’s report “Workforce Quality and Federal Procurement: An Assessment,” July 1992). With federal acquisitions growing in dollars and complexity, we are naturally led to questions about the non-procurement professionals who are likely to play an increasingly important part in the delivery of goods and services to the federal government. Who are these people, what are their roles in the procurement process, what is their impact on contracting outcomes? We plan to address these and related questions in a study currently underway, and will report our findings in 2002.



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Selected Publications from the Office of Policy and Evaluation *

- ☐ Growing Leaders: The Presidential Management Intern Program
- ☐ Competing for Federal Jobs: Job Search Experiences of New Hires
- ☐ Restoring Merit to Federal Hiring: Why Two Special Hiring Programs Should Be Ended
- ☐ The Role of Delegated Examining Units: Hiring New Employees in a Decentralized Civil Service
- ☐ Federal Supervisors and Poor Performers
- ☐ Civil Service Evaluation: the Evolving Role of the U.S. Office of Personnel Management
- ☐ Federal Supervisors and Strategic Human Resources Management
- ☐ The Changing Federal Workplace: Employee Perspectives
- ☐ Adherence to the Merit Principles in the Workplace: Federal Employees' Views
- ☐ Achieving a Representative Workforce: Addressing the Barriers to Hispanic Participation
- ☐ Fair and Equitable Treatment: A Progress Report on Minority Employment in the Federal Government
- ☐ The Rule of Three in Federal Hiring: Boon or Bane?
- ☐ Sexual Harassment in the Federal Workplace: Trends, Progress, Continuing Challenges
- ☐ Leadership for Change: Human Resource Development in the Federal Government
- ☐ Whistleblowing in the Federal Government: An Update
- ☐ A Question of Equity: Women and the Glass Ceiling in the Federal Government

Selected Current Projects

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| <input type="checkbox"/> OPM 20-year retrospective | <input type="checkbox"/> Governmentwide Merit Principles Survey 2000 |
| <input type="checkbox"/> Merit promotion | <input type="checkbox"/> Alternative delivery of HR services |
| <input type="checkbox"/> Selection tools used in federal hiring | <input type="checkbox"/> Competence in overseeing federal contracts |
| <input type="checkbox"/> The use of interviews | <input type="checkbox"/> Federal government recruiting |

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*** Most of these reports can be downloaded from the STUDIES page of the MSPB website: mspb.gov**

"Issues of Merit" provides findings and recommendations drawn from MSPB research on topics and issues relevant to the effective operation of the federal merit systems and the significant actions of the Office of Personnel Management.